

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 139 be amended to read as follows:

- 1 Page 18, between lines 37 and 38, begin a new paragraph and insert:  
2 "SECTION 33. IC 31-17-2-25 IS ADDED TO THE INDIANA  
3 CODE AS A NEW SECTION TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2006]: **Sec. 25. (a) This section applies if a**  
5 **custodial parent or guardian of a child dies or becomes unable to**  
6 **care for the child.**  
7 **(b) Except as provided in subsection (c), if a person other than**  
8 **a parent files a petition:**  
9 **(1) seeking to determine custody of the child; or**  
10 **(2) to modify custody of the child;**  
11 **the court shall set an initial hearing not later than forty-eight (48)**  
12 **hours after the petition is filed to determine whether emergency**  
13 **placement of the child with a person other than the child's**  
14 **noncustodial parent pending a final determination of custody is in**  
15 **the best interest of the child.**  
16 **(c) A court is not required to set an initial hearing in accordance**  
17 **with this section if:**  
18 **(1) it appears from the pleadings that placement with a person**  
19 **other than the noncustodial parent is not in the best interest**  
20 **of the child;**  
21 **(2) it appears from the pleadings that the petitioner does not**  
22 **have a reasonable likelihood of success on the merits; or**  
23 **(3) manifest injustice would result."**  
24 Page 22, between lines 22 and 23, begin a new paragraph and insert:  
25 "SECTION 37. IC 31-34-5-3.5 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2006]: **Sec. 3.5. If the juvenile court releases  
 a child to the child's parent, guardian, or custodian under section  
 3 of this chapter, the court may impose conditions on the child or  
 the child's parent, guardian, or custodian to ensure:**

- (1) the child's appearance at subsequent proceedings;**
- (2) the safety of the child's physical or mental health; or**
- (3) that both subdivisions (1) and (2) are satisfied."**

Page 26, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 47. IC 31-37-6-6 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) The juvenile  
 court shall release the child on the child's own recognizance or to the  
 child's parent, guardian, or custodian upon the person's written promise  
 to bring the child before the court at a time specified. However, the  
 court may order the child detained if the court finds probable cause to  
 believe the child is a delinquent child and that:

- (1) the child is unlikely to appear for subsequent proceedings;
- (2) detention is essential to protect the child or the community;
- (3) the parent, guardian, or custodian:
  - (A) cannot be located; or
  - (B) is unable or unwilling to take custody of the child;
- (4) return of the child to the child's home is or would be:
  - (A) contrary to the best interests and welfare of the child; and
  - (B) harmful to the safety or health of the child; or
- (5) the child has a reasonable basis for requesting that the child  
 not be released.

However, the findings under this subsection are not required if the child  
 is ordered to be detained in the home of the child's parent, guardian, or  
 custodian or is released subject to any condition listed in subsection (d).

(b) If a child is detained for a reason specified in subsection (a)(3),  
 (a)(4), or (a)(5), the child shall be detained under IC 31-37-7-1.

(c) If a child is detained for a reason specified in subsection (a)(4),  
 the court shall make written findings and conclusions that include the  
 following:

- (1) The factual basis for the finding specified in subsection (a)(4).
- (2) A description of the family services available and efforts made  
 to provide family services before removal of the child.
- (3) The reasons why efforts made to provide family services did  
 not prevent removal of the child.
- (4) Whether efforts made to prevent removal of the child were  
 reasonable.

(d) Whenever the court releases a child under this section, the court  
 may impose conditions upon the child, including:

- (1) home detention;
- (2) electronic monitoring;
- (3) a curfew restriction;
- (4) a protective order;

- 1 (5) a no contact order;  
2 (6) an order to comply with Indiana law; or  
3 (7) an order placing any other reasonable conditions on the child's  
4 actions or behavior.
- 5 **(e) If the juvenile court releases a child to the child's parent,**  
6 **guardian, or custodian under this section, the court may impose**  
7 **conditions on the child's parent, guardian, or custodian to ensure:**  
8 **(1) the child's appearance at subsequent proceedings;**  
9 **(2) the safety of the child's physical or mental health;**  
10 **(3) the public's physical safety; or**  
11 **(4) that any combination of subdivisions (1) through (3) are**  
12 **satisfied."**
- 13 Renumber all SECTIONS consecutively.  
(Reference is to ESB 139 as printed February 24, 2006.)

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Representative Thompson